

## **JUDICIAL PRACTICE AND PROCEDURES:**

### **Magistrate Judge Carol Sandra Moore Wells**

Magistrate Judge Wells was born in 1949, and is a graduate of the University of Pennsylvania School of Law (J.D. 1985). From 1978 to 1984, she served the dual role of founder and teacher at Lotus Academy. During that time, Judge Wells also served as a law clerk/office manager with Nichols, Nichols, Clark & New Kirk. From 1985 to 1987, she was in private practice as an associate attorney with Pincus, Verlin, Hahn & Reich, P.C. From 1987 until 1996, Judge Wells worked for the City of Philadelphia as an Assistant City Solicitor, Deputy City Solicitor, and Senior Attorney. She was appointed as a Magistrate Judge of the United States District Court for the Eastern District of Pennsylvania on June 3, 1996 and reappointed in 2004.

### **Preliminary General Matters**

#### **Correspondence with the Court**

Judge Wells permits correspondence from counsel on all matters, but prefers to resolve disputes via joint telephone conference.

#### **Communication with Law Clerks**

Judge Wells permits counsel to speak directly with her law clerks on procedural matters. However, her law clerks should never be contacted regarding substantive matters, including the merits of pending matters.

#### **Telephone Conferences**

Judge Wells prefers to hold conferences in chambers. However, when counsel cannot be present, or when time is of the essence, she encourages joint telephonic conferences. It is the responsibility of counsel to arrange mutually agreeable times for such conferences and to call chambers once counsel for all parties are on the line.

#### **Oral Arguments and Evidentiary Hearings**

Judge Wells does not set aside any special days or times for oral arguments or evidentiary hearings. These matters are scheduled by her Deputy Clerk who will attempt to accommodate counsel's schedules.

### **Civil Cases**

#### **Pretrial Conferences**

Judge Wells regularly conducts pretrial/status and settlement conferences in cases pending before her. Pretrial/status conferences, where appropriate, are scheduled promptly upon referral of the case to Judge Wells. The standard agenda for such conferences tracks Federal Rules.

Additionally, at pretrial conferences, attorneys from both sides should be prepared to discuss settlement possibilities.

Judge Wells expects opposing counsel to attempt to resolve disputes prior to bringing them to her attention, pursuant to Local Rule 26.1(f).

## **Continuances and Extensions**

### **General Policy**

Judge Wells' general policy on continuances for briefing schedules, oral arguments, evidentiary hearings, and discovery deadlines is to be flexible during the initial stages of litigation, but strict as the trial date approaches.

### **Requests for Extensions and Continuances**

Judge Wells does not impose any specific requirement as to how far in advance of a scheduled event counsel must request a continuance or extension. However, she expects such a request to be made as soon as the need becomes apparent and sufficiently in advance for the court to schedule a matter.

A joint continuance or extension request of the parties may be made by letter or conference call. A contested request for a continuance or extension of a court-ordered deadline should be in a letter (faxed to chambers) or requested via formal motion.

## **General Motion Practice**

### **Oral Argument of Motions**

Judge Wells will schedule oral arguments on a motion if it appears likely to be helpful to the Court. One or all counsel should request oral argument if they consider it vital to a fair disposition of the issues before the Court.

### **Reply and Supplemental Briefs**

If a telephone conference does not resolve an issue, Judge Wells may instruct the parties to file briefs. The parties must seek permission to file supplemental briefs.

### **Chamber Copies of Motion Papers**

The delivery of courtesy copies of all motion papers to Judge Wells' chambers, especially via electronic means, is encouraged.

## **Discovery Matters**

## **Length of Discovery Period and Extensions**

Judge Wells has no general policy regarding the length of time allowed for discovery. The length of the discovery period is dictated by the complexity of the case and is determined at the Rule 26 discovery conference. At such a conference, both parties should provide input as realistic time limits.

## **Discovery Conferences and Dispute Resolution**

Judge Wells expects the parties to resolve most discovery disputes without court intervention, per Local Rule 26.1(f). If this is not possible, counsel should request a telephone conference by letter or initiate a joint telephone conference call. It should be noted that a telephone conference is not encouraged if *pro se* are litigants involved. In appropriate cases, Judge Wells will convene discovery conferences in chambers.

Judge Wells may initiate a discovery conference *sua sponte*. Furthermore, she broaches settlement negotiations at any stage of litigation.

## **Confidentiality Agreements**

Judge Wells encourages counsel to develop confidentiality agreements, when appropriate. However, she rarely will entertain stipulated confidentiality orders submitted for court approval.

## **Expert Witnesses**

Disclosure of the identity of experts who are to testify at trial is required as soon as they are known to the respective parties and no later than the end of the discovery period. In complex cases, Judge Wells may lengthen the time permitted for expert discovery.

Expert reports should be exchanged on or before the dates set by the Scheduling Order.

Judge Wells permits depositions of expert witnesses in accordance with the Federal Rules of Civil Procedure.

## **Settlement**

### **General Approach to Settlement and Non-jury Cases**

Judge Wells conducts settlement conferences upon request of all parties, upon referral from a District Court Judge, or *sua sponte*. She actively encourages settlement and makes herself available for in-depth settlement discussions in referred cases.

Each attorney appearing for a party at a settlement conference must have full authority to negotiate and settle the case on behalf of his/her client. Judge Wells expects the parties to be

present or available by telephone, unless expressly excused by her prior to the conference.

### **Referral of Settlement Negotiations to Another Judge**

In non-jury cases where the parties have consented to trial before Judge Wells, she will refer in-depth settlement negotiations to another Magistrate Judge.

## **Arbitration**

### **General Approach to Arbitration Cases**

Judge Wells has no special practices or procedures for arbitration cases, except for an accelerated discovery process.

### **Scheduling of Trial *De Novo* from Arbitration**

When a demand for trial *de novo* is filed after arbitration, Judge Wells promptly schedules a status conference to explore the possibility of settlement and/or schedule a prompt, but mutually convenient trial date.

## **Proposed Final Pretrial Memoranda**

### **Required Form of Pretrial Memoranda**

Unless specifically provided for by a separate order, Judge Wells requires counsel to use the short form pretrial memorandum described in Local Rule of Civil Procedure 21(c). A stipulation of uncontested facts, as set forth in Local Rule 21 (d)2(b)(2)(A)-(E) should accompany this memorandum.

The judge also requires counsel to comply with the rules set forth in her Scheduling Order, which at a minimum, requires counsel, on a specific date, to file with the Clerk and serve on opposing counsel: (a) a list of all exhibits to be used at trial; (b) a list of all witnesses to be called at trial, as well as a brief summary of each witness testimony; (c) memoranda of law on all legal and evidentiary issues expected to arise at trial; and (d) requests for instructions to the jury.

## **Trial Procedure**

### **Scheduling of Cases**

Judge Wells assigns a date certain for trial, after consulting with counsel. Counsel should be prepared during any pretrial conference and/or settlement conference to advise the judge as to when discovery and expert reports are expected to be complete.

### **Conflicts of Counsel**

If a conflict of counsel will affect the trial schedule, Judge Wells requires that counsel file a written request for a joint telephone conference in order to resolve the issue. If *pro se* litigants are involved, Judge Wells may hold a conference on the record.

### **Cases Involving Out-of-Town Parties or Witnesses**

When possible, Judge Wells will adjust the trial schedule to give consideration to out-of-town attorneys, parties, or witnesses.

### **Note Taking by Jurors**

Judge Wells will allow jurors, in complex or otherwise appropriate cases, to take notes for personal use only.

### **Trial Briefs**

Counsel should not submit trial briefs unless requested to do so by the Court.

### ***Voir Dire***

Judge Wells requires counsel to submit proposed *voir dire* questions at the final pretrial conference. She permits counsel to conduct *voir dire* in civil cases, but personally presides over all such proceedings. Judge Wells conducts in-depth *voir dire*, at side-bar, in appropriate cases. There is no pre-determined time limit for *voir dire*.

### **Side Bars**

Judge Wells strongly discourages side-bars and encourages counsel to raise foreseeable issues before trial commences, during recesses, or after adjournments.

### **Motions *in Limine***

Motions *in limine* should be filed with a party's final pretrial memorandum and will usually be ruled upon at the final pretrial conference, unless it is appropriate to defer a ruling until some time during the trial.

### **Examination of Witnesses Out of Sequence**

Subject to objections by opposing counsel, Judge Wells generally will allow witnesses to be examined out of sequence for the convenience of the witnesses and counsel.

### **Opening Statements and Summations**

Judge Wells generally does not impose any pre-determined time constraints in opening statements and summations.

### **Examination of Witnesses or Argument by More Than One Attorney**

Judge Wells will permit only one attorney to examine a witness, but will allow more than one attorney to argue motions before the Court.

### **Examination of Witnesses Beyond Redirect and Recross**

Judge Wells has no fixed policy regarding the examination of a witness beyond redirect and recross. She will permit reasonable examination of a witness in areas that are not repetitive or beyond the scope of previous questioning by opposing counsel.

### **Videotaped Testimony**

Judge Wells requires counsel to jointly view all videotaped depositions before the final pretrial conference in order to raise and resolve all material objections prior to the commencement of trial. The attorney sponsoring the videotape witness bears the responsibility for setting up timely playback equipment in the courtroom.

### **Reading Material into the Record**

Judge Wells encourages counsel to submit a stipulation of all undisputed facts and, whenever possible, to verify the authenticity of documents in order to expedite the trial process.

### **Preparation of Exhibits**

All exhibits must be pre-marked and pre-exchanged prior to trial. Counsel shall present to the Court, in a loose-leaf binder, a list and copy of all exhibits before trial.

### **Offering Exhibits into Evidence**

Judge Wells has no preference as to when exhibits should be offered into evidence.

### **Motions for Judgment as a Matter of Law and Motion for Judgment on Partial Findings**

These motions may be submitted either orally or in writing. The Court or any party may request oral argument.

### **Proposed Jury Instructions and Verdict Forms**

As set forth in her Standard Scheduling Order, Judge Wells requires counsel to submit joint proposed jury instructions, noting areas of agreement as well as objections. Counsel must also jointly submit a proposed verdict form or proposed special interrogatories to be submitted to the

jury. At the final pretrial conference, Judge Wells will rule on any evidentiary objections. Prior to giving the jury charge, a copy of final jury instructions and verdict sheet (or special interrogatories) will be provided to counsel who will be given an opportunity to take exception, make corrections, or suggest additions. Supplemental or amended jury instructions may be offered.

All jury verdicts must be unanimous, unless otherwise stipulated by the Court and counsel prior to or during trial.

### **Proposed Findings of Fact and Conclusions of Law**

Judge Wells requires counsel to submit proposed findings of fact and conclusions of law in non-jury cases at the final pretrial conference. She will permit supplementation of that submission (at the close of the trial or, in a complex matter, after trial) as necessary.

### **Jury Deliberations**

#### **Written Jury Instructions**

Judge Wells will submit a copy of instructions to the jury in particularly complex cases or upon request of all counsel.

#### **Exhibits in Jury Room**

Judge Wells will ask counsel to stipulate what evidence will go out to the jury. Should counsel be unable to reach a consensus, Judge Wells will determine the issue.

#### **Handling of Jury Requests to Read Back Testimony or Replay Tapes**

Judge Wells will permit portions of the record to be reviewed by the jury; however, in the interest of fairness, she will consult counsel in attempting to provide a balanced, contextual review of the record.

#### **Availability of Counsel during Jury Deliberations**

Judge Wells requires counsel to spend the first hour of jury deliberations in or near the courthouse. Thereafter, counsel will be permitted to leave, provided they are available by phone or remain in close proximity to the courthouse. Cell phone numbers should be provided to her Deputy Clerk.

#### **Taking the Verdict and Special Interrogatories**

Judge Wells has no policy for special or general verdicts and she will, if appropriate, submit special interrogatories to the jury.

## **Polling the Jury**

Judge Wells will, upon request of counsel direct her Deputy Clerk to poll the jury.

## **Interviewing the Jury**

After a civil verdict is taken, Judge Wells will permit jurors to be interviewed should they elect to participate, and with the admonition that counsel not inquire about specific votes.

## **Criminal Cases**

### **Approach to Oral Arguments and Motions**

Judge Wells encourages oral argument or motions in criminal cases.

### **Pretrial Conferences and Motions**

Judge Wells does not generally conduct pretrial conferences in criminal cases, but will do so, upon request of counsel.

### ***Voir Dire***

Judge Wells conducts all *voir dire* in criminal cases; counsel should submit proposed *voir dire* questions to the court in advance of trial.

### **Sentencing Memoranda**

Judge Wells permits submission of sentencing memoranda.

### **Additional Matters**

Counsel must be present at all duty week proceedings.

No party or their counsel may review pretrial service's recommendations regarding detention or release.

Judge Wells looks upon a single attorney representing multiple defendants in one case with disfavor, with the possible exception of the initial appearance. She prefers that counsel avoid all potential conflicts of interest by representing one defendant only in related criminal proceedings.

The Court prefers having the opportunity to review all proposed orders prior to any hearing.

Judge Wells, while lacking the power to define the precise location and circumstances of detention, within her authority will be flexible in developing an appropriate detention or release package for defendants, particularly in regard to minors and those in need of psychological or



medical assessment or treatment.

### **Other General**

Judge Wells expects counsel to comply with local rules of civil procedure and to attempt to resolve any and all conflicts among themselves before bringing a matter before the Court.

Judge Wells wishes to receive a courtesy copy of any briefs filed in appeal of her decisions.

Further questions as to Judge Wells' policies should be directed to her Deputy Clerk.